

## **REMARKS / DISCUSSION OF ISSUES**

The present amendment is submitted in response to the Final Office Action mailed September 15, 2011. In view of the remarks to follow, reconsideration and allowance of this application are respectfully requested.

### ***Status of the Claims***

Upon entry of the present amendment, claims 5 and 14-25 will remain pending in this application, with claim 5 being in independent form. Claim 5 has been amended. Claims 4, 6-8 and 9-10 have been cancelled without prejudice or disclaimer. Claims 14-25 have been added. Applicants respectfully submit that no new matter is added by the present amendments.

### ***Interview Summary***

Applicants appreciate the courtesy granted to Applicant's attorney, Michael A. Scaturro (Reg. No. 51,356), and to inventor, Michael Epstein, during a telephonic interview conducted on Monday, November 14, 2011. During the telephonic interview, the Examiner indicated that a potential allowance would be potentially forthcoming if the Applicant attends to each of the following issues, (1) correcting the objections related to dependent claims 4-6, (2) incorporating Applicant's proposed amendment to claim 4 and similarly to each of the other independent claims, (3) limit the systems claims to a single independent system claim, and (4) add a method claim. Upon receiving a formal response, the Examiner will determine if each of the above issues has been addressed and if there is sufficient support for Applicant's proposed claim amendment, and make a determination whether an allowance will be forthcoming as suggested by the Examiner.

### ***Claim Objections***

In the Office Action, Claims 4-5 were objected to for reciting "the unauthorized users" which lacks antecedent basis. Claims 4 and 6 have been cancelled without prejudice or disclaimer. Claim 5 has been amended in a manner which is believed to overcome the

objections noted by the Examiner. Accordingly, withdrawal of the objections of claim 5 is respectfully *requested*.

In the Office Action, Claims 4-6 were objected to for being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the instant case, the claim language, “*continuously requesting randomly selected source information from the unknown source unit until a statistically observable difference from the expected response time of a local source is detected.*” Claims 4 and 6 have been cancelled without prejudice or disclaimer. Claim 6 has been amended in a manner which is believed to overcome the objections noted by the Examiner. Accordingly, withdrawal of the objections of claim 6 is respectfully *requested*.

***Rejections under 35 USC 103***

- I. Claims 4-7 and 9-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application No. 20030123491 to Coullard in view of U.S. Patent No. 7,197,563 to Sheymov et al. (“Sheymov”) in view of U.S. Patent Application No. 2002/0147930 to Pritchard et al. (“Pritchard”), and further in view of U.S. Patent Application No. 2009/0240721 to Giacalone et al (“Giacalone”).**

Claims 4, 6-7 and 10 have been cancelled without prejudice or disclaimer. The remainder of the rejections with respect to claims 5 and 9 are respectfully traversed.

In order to establish a prima facie case of obviousness, the cited prior art in combination must show all of the claimed limitations. M.P.E.P. §2141. Here, there are elements in independent claim 5, as amended, which are not shown even in a combination of the cited prior art.

Therefore, the following limitations of independent claim 5, as amended, are not found even in a combination of the record. That is, Applicants' independent Claim 5 has been amended to recite features not disclosed or suggested by Coulliard, Sheymov, Pritchard and Giacalone, taken alone and in any proper combination. In particular, neither Coulliard, Sheymov, Pritchard nor Giacalone, taken alone and in any proper combination, disclose, teach or suggest, "...wherein each of the one or more **non-scheduled** requests issued from the first source comprise a request for access to randomly selected source information from the unknown second source...." *Emphasis Added.*

Applicants have amended Claim 5 to more clearly and precisely recite that the *requests* made by the verifier are **non-scheduled requests**. In the Office Action, Giacalone is cited for remedying a deficiency in Coulliard and Sheymov. Specifically, Giacalone is cited for disclosing a method of randomly selecting content to be played on **schedule**. However, Applicant maintains that Giacalone does not teach Applicant's Claim 5, as amended. As stated above, Claim 5 now requires that the *requests* are **non-scheduled requests**. It is respectfully submitted that Giacalone does not disclose, teach or suggest **non-scheduled requests** for at least the following reasons.

Giacalone is directed to providing a method for enabling the automated scheduling of media to be played on a logical group of players connected via a distributed network. Giacalone provides several methods of scheduling that combine to create a comprehensive and flexible media scheduling system. With regard to the "scheduling" aspect of Giacalone, the reference describes at par. 58-61 that a significant benefit of the group function is the ability to select one of three possible play algorithms for each group **scheduled**. See par. 58. Giacalone further discloses, "...if the group of content was **scheduled** to be played every hour on the hour." See Giacalone, par. 59. Also, par. 60 teaches, "...results in one item of content being played for each **scheduled** play of the group."

Par. 58-61 of Giacalone:

[0058] Moving now to FIG. 12, an additional feature of content grouping is presented. The content group function provides a method to group items of content by selecting multiple content items in the select content box (140). The group scheduling function is enabled by selecting the "create one" group item checkbox (142). Once the group function is enabled, the group must be named by typing in an alphanumeric name for the newly created group (144). A significant benefit of the group function is the ability to select one of three possible play algorithms for each group **scheduled** (146).

[0059] Selecting the "play all items" function (148) causes each item of content contained in the group to be played at each **scheduled** playing of the selected group. For example, if the group of content was **scheduled** to be played every hour on the hour, then each item of content in the group (140) would be played sequentially at the top of each hour, e.g., at 1:00 p.m., anniversary would play, followed by Human Resources, followed by Caesar's El Portal. At 2:00 p.m., the sequence would repeat, etc.

[0060] Selecting the "play only one item in sequence" button (150) results in one item of content being played for each **scheduled** play of the group. Using the previous example where the group is **scheduled** for play every hour on the hour, at 1:00 p.m., anniversary (the first content item in the group) would be played. At 2:00 p.m., Human Resources, the second item of content would be played. At 3:00 p.m., Caesar's El Portal (third item of content) would be played. At 4:00 p.m., the sequence would start over playing the anniversary content item and so forth.

[0061] Selection of the "play one item random" button (152) causes any one item of content to be chosen randomly and played once at each **scheduled** play of the group. Using the same example once again, at 1:00 p.m., one of the three items of content would be selected randomly and played. One of the three content items would again be randomly selected at 2:00 p.m. and again one item randomly at 3:00 p.m., etc.

### **Emphasis Added.**

It is respectfully submitted that *requests* in the context of the invention, and as claimed constitute non-scheduled requests. According to the invention, when a user commences the rendering of material from an unknown media source 130, as shown in Fig. 1, a processor 120 of a control access system 100 is configured to verify the presence of the media source 130. One method of effecting this verification is to *request* that an access device 132 (e.g., CD reader) provide evidence that the media 130 (e.g., CD), being played on the accessed device 132, is available to provide material or information that differs from the material that the user is attempting to render. For example, if the user commences the rendering of a song "A", the verifier 126 may direct the renderer 122 to *request* a portion of a different song "B" from the access device 132 (e.g., CD reader). If the access device 132 is unable to provide the *requested* portion of a different song, the verifier 126 can conclude that the media 130 is not

actually present for rendering, and will terminate subsequent rendering of the material that the user intended to render, via the gate 124. In the instant example, the verifier 126 is configured to *request* random source information. In the example of a CD media 130, the verifier 126 is configured to *request* access to randomly selected sections on the media 130 until sufficient confidence is gained whether the source is local or remote. It is therefore shown that the system and method of the invention is not directed to so-called **scheduled requests** as taught in Giacalone. Rather, the process is initiated whenever a user *requests* material from an unknown source, which cannot be known *a-priori*. Further, once a *request* has been initiated, the *request* for so-called “other” information (e.g., song “B”) cannot be scheduled *a-priori* because the user *request* for song “A” cannot be anticipated.

Accordingly, claim 5, as amended, now requires that the *requests* from a verifier are “**non-scheduled**” *requests*. It is respectfully submitted that Giacalone fails to meet this claim limitation.

Further, as discussed during the 11/14/11 telephonic interview, Pritchard does not meet Applicant’s claim limitation of, *wherein the assessment of the one or more responses performed by the verifier comprises: continuously requesting randomly selected source information from the unknown source unit until a statistically observable difference from the expected response time of a local source is detected*. As previously discussed, Pritchard does not perform a statistical analysis of a computer password access *request*. Instead, an attacking computer 106 transmits a password attempt in order to gain entry to a protected computer 100. A determination is made whether a time envelope (time measured from a first keystroke to a last keystroke) of a completely entered password attempt matches the stored password. If the time envelopes match then the segments of the password are individually evaluated to determine whether they match pre-stored time segments. If any particular segment does not match a pre-stored segment the attacking computer 106 is denied entry. See Pritchard, par. 52-54 and Fig. 3. Applicant maintains that the act of denying entry based on a particular failed segment without further evaluating any remaining segments of a complete password

teaches away from performing a statistical analysis on the computer password until a statistically observable difference is detected.

Accordingly, claim 5, as amended, requires that the verifier *continuously requests randomly selected source information from the unknown source unit until a statistically observable difference from the expected response time of a local source is detected*. It is respectfully submitted that Pritchard fails to meet this claim limitation.

Based on the foregoing, it is respectfully submitted that the cited and applied references, alone or in any combination, do not teach the further features added to claim 5. That is, the cited and applied references fail to disclose or suggest “*wherein each of the one or more **non-scheduled** requests issued from the first source comprise a request for access to randomly selected source information from the unknown second source*, as recited in claim 5. It is respectfully submitted that claim 5 is allowable and that the §103(a) rejection should be withdrawn.

**II. Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sheymov-Pritchard-Giacalone in view of U.S. Patent No. 7,412,594 to Bridge. Claim 8 has been cancelled without prejudice or disclaimer.**

*New Claims*

Claims 14-19 recite features previously provided in now canceled independent claims 4, 7 and 8. These claims now depend from independent claim 5.

Claims 20-25 are method claims in accordance with the Examiner’s suggestion for including at least one method claim.

### **Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 5 and 14-25 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is *requested* to call Mike Scaturro, Esq., Intellectual Property Counsel, Philips Electronics North America, at 516-414-2007.

Respectfully submitted,



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